

*ANDERSON et al.*  
*Appl. No. 09/927,452*  
*April 25, 2007*

**AMENDMENTS TO THE DRAWINGS**

The attached sheets of drawings includes new Figs. 6-7. In Figs. 6-7, previously omitted element "M UNITS" has been added.

Attachments: Original Sheets (Figs. 1-5).

New Sheets (Figs. 6-7).

**REMARKS/ARGUMENTS**

Reconsideration and allowance of this application are respectfully requested. Currently, claims 1-36 are pending in this application. However, claims 7-18 and 25-36 have been withdrawn from consideration. The specification has been amended (via the substitute specification attached hereto) to improve the form thereof. Applicant submits that no new matter is introduced by the substitute specification. A marked-up copy of the original specification showing changes made by the substitute specification is attached.

**Objection to the Drawings:**

The Office Action alleges that the drawings do not show every feature of the invention specified in the claims. In particular, the Office Action alleges that the figures only depict that N units into one unit, but not M unit(s). Figures 6-7 have been added to clearly indicate that it is possible to bundle N individual items into M unit(s). Support for new Figs. 6-7 can be found in the original specification, for example, at page 3, line 15 to page 5, line 4, as well as at page 8, lines 3-6. New Figs. 6-7 therefore do not add new matter into the original disclosure.

Accordingly, withdrawal of this objection is respectfully requested.

**Rejections Under 35 U.S.C. §112, First Paragraph:**

Claims 1-6 and 19-24 were rejected under 35 U.S.C. §112, first paragraph as allegedly failing to comply with the written description requirement. In particular, the Office Action alleges that neither the term “M” nor the manner in which “M” is to be determined is set forth in the specification. This rejection is respectfully traversed.

The Office Action identifies page 3, line 17 to page 4, line 5, as well as “page 4, lines 16+” as attempting to set forth the definition of “M.” Applicant respectfully submits that it is clear to one of ordinary skill in the art that M is merely a number that corresponds to a number of

variable unit(s) into (or from) which individual items may be bundled (or unbundled). Although the above-noted portions of the original specification discuss the variables N and M corresponding to the number of individual items ordered and the number of bundled/unbundled units in the abstract, the specification provides more concrete examples of illustrative values of N and M. Page 7, line 20 to page 8, line 3, for example, indicates that 10 (N) items may be bundled into 1 (M) unit. It is made clear at page 8, lines 3-6 that such numbers are exemplary, and an example of 10 (N) items may be bundled into 2 (M) units.

The Office Action further alleges that “the specification fails to set forth even the basic equation/formula/method etc. as to how and in what manner ‘M’ is determined.” As noted above, it is clear to those of ordinary skill M is merely a variable number of units. As such, it requires no such “basic equation/formula/method etc.” for its calculation. Rather, the original specification explicitly notes at page 8, lines 7-21 that an evaluation must be made via the processing system whether:

the ten individual items listed in the order properly constitutes the collective single [M] unit. The evaluation therefore involves determining whether the order would have indicated an order for “1” [M] unit if the order were written in accordance with the format used and preferred by the order processing system.

In view of the foregoing, withdrawal of the rejection under 35 U.S.C. §112, first paragraph is respectfully requested.

**Rejections Under 35 U.S.C. §112, Second Paragraph:**

Claims 1-6 and 19-24 were rejected under 35 U.S.C. §112, second paragraph as allegedly being indefinite. The Office Action includes seven different rejections. Applicant respectfully traverses each of these rejections.

The Office Action first alleges that claims 1-6 and 19-24 are vague, indefinite, and incomplete “in what is meant by and encompassed by the term ‘M’.” Applicant respectfully submits that the claimed invention is not indefinite under 35 U.S.C. §112, second paragraph for substantially the same reasons provided above. To reiterate, it is quite clear to one of ordinary skill in the art that M is merely a variable designating the number of units into which the N individual items should be bundled into and unbundled from. Accordingly, withdrawal of this rejection under 35 U.S.C. §112, second paragraph is respectfully requested.

The Office Action next alleges that claims 1-6 and 19-24 are vague, indefinite, and incomplete because the claims allegedly “fail to set forth ‘N’ as a number.” One of ordinary skill in the art would clearly understand from the plain language of the claim that N is a number in that the claim requires “receiving an order indicating N items,” with N commonly being used as a numerical variable. Moreover, one of ordinary skill in the art would take note that claim 1, for example, requires “M being a number lower than N.” From this language, it is clear that M is a number, that N is a number, and that M is a number lower than the number N. Finally, claims are to be interpreted in light of the specification, which makes clear that M and N are numbers. For example, page 8, line 9 notes that “N=10 in this example.” Accordingly, withdrawal of this rejection under 35 U.S.C. §112, second paragraph is respectfully requested.

Without acquiescing to the propriety of the rejections, Applicant has amended claims 1 and 19 to obviate the rejections pertaining to the “receiving,” “bundling,” “processing the order,” and “order processing system” limitations. Additionally, Applicant notes that the Office Action appears to sometimes confuse of scope, enablement (particularly pertaining to software and/or hardware), and indefiniteness. The claim amendments should make these differences clear and

obviate all rejections. Accordingly, withdrawal of these rejections under 35 U.S.C. §112, second paragraph is respectfully requested.

Finally, the Office Action alleges that claims 1-6 and 19-24 are vague, indefinite, and incomplete because it allegedly is unclear by what is meant and encompassed by the limitation “generating a notice.” Here, as above, it appears that the Office Action here confuses scope with indefiniteness. The specification includes several examples of the types of notice that might be provided to the user. For example, an ASN or an invoice may be generated to indicate what has been ordered, allocated for shipment, and/or shipped, as noted on page 9, lines 11-22. The same and other portions of the original disclosure also indicate that such notices may be generated by a processor, by an ASN, etc. Accordingly, withdrawal of this rejection under 35 U.S.C. §112, second paragraph is respectfully requested.

#### **Rejection under 35 U.S.C. §101**

Claims 19-24 have been rejected under 35 U.S.C. §101 as allegedly being directed to non-statutory subject matter. Without acquiescing to the propriety of the rejection, Applicant has amended claim 19 so as to obviate the rejection. Accordingly, withdrawal of the rejection under 35 U.S.C. §101 is respectfully requested.

#### **Rejection under 35 U.S.C. §102**

Claims 1-6 and 19-24 have been rejected under 35 U.S.C. §102(b) as allegedly being anticipated by admitted prior art (APA). Applicant respectfully traverses this rejection.

For a reference to anticipate a claim, each element must be found in the reference, either expressly or under the principles of inherency. Each element of the claimed invention is not found in the APA. For example, the APA does not teach or suggest “processing the order using the M unit(s) as a representation of the N items” as required by claim 1 and its dependents.

Similarly, the APA does not teach or suggest “a processor . . . for processing the order using the M unit(s) as a representation of the N items” as required by claim 19 and its dependents.

The Office Action appears to rely on page 1, line 16 to page 2, line 10 of the original specification. In doing so, it misconstrues the meaning of bundling the N items as M unit(s). For example, the Office Action alleges that putting N individual items into or on a case, box, container, etc. discloses both bundling the N individual items into M unit(s) and processing the order using the M unit(s) as a representation of the N items.

However, the paragraph directly following those quoted in the Office Action (i.e., page 2, lines 10-19) adequately and accurately distinguishes the standard order processing scenario from the claimed invention. For example, it is observed that a customer sometimes will not be able to provide an order for a desired product in a format consistent with the format required by the vendor’s ordering processing system. The specification makes it clear that “[t]he order for the desired product from the customer is thus formatted on an individual item basis whereas the vendor offers and processes the same product in its order processing system on a collective unit basis.” In such cases, the vendor may be forced to reject the order entirely, or the vendor may ship the individual items in an uncollected state. That is, even when the order is processed (and subsequently shipped), it is not done using M unit(s) as a representation of the N items as required by claims 1, 19, and their dependents.

As such, the argument contained in the Office Action is misguided because the APA neither (1) discloses bundling N items into M units as used in the specification and required by the claims, nor (2) discloses processing the order using the M unit(s) as a representation of the N items. For at least the foregoing reasons, Applicant respectfully requests that the rejection under 35 U.S.C. §102(b) be withdrawn.

**Rejections under 35 U.S.C. §103**

Claims 1-6 and 19-24 have been rejected under 35 U.S.C. §103(a) as allegedly being obvious over the APA. This rejection is respectfully traversed.

First, Applicant reiterates the above arguments with respect to the specific teachings of the APA. Second, Applicant notes that the portions cited in the Office Action do not refer to mere automation. Rather, they refer to alternative ways of practicing the invention defined by the claims. For example, page 7, lines 7-8 note that orders may be received via EDI or via manual input. Page 8, lines 15-17 and page 11, lines 15-18 note that a computer and/or human process may be used to determine whether orders should be bundled/unbundled. Moreover, the words “automatic,” “automate,” “automation” do not appear anywhere in Applicant’s disclosure. For at least the foregoing reasons, Applicant respectfully requests that this rejection under 35 U.S.C. §103 be withdrawn.

Claims 1-6 and 19-24 also have been rejected under 35 U.S.C. § 10(a) as allegedly being obvious over Miller et al. (U.S. Patent No. 4,882,475).<sup>1</sup> This rejection is respectfully traversed.

Applicant notes that the portions of Miller cited by the Office Action do not even relate to processing an order for a number of individual items and bundling items into unit(s) -- much less processing the order using the M unit(s) as a representation of the N items, as required by the claims. Indeed, the Office Action appears to confuse an order number (i.e., a number identifying the order) with a number of items ordered (N) and with a number of unit(s) (M) into which those items may be bundled. Contrary to the assertion in the Office Action, and as set forth in great detail above, M corresponds to a number of units -- not a number merely representing

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<sup>1</sup> It is assumed that the Office Action relies on U.S. Patent No. 4,882,475 to Miller et al., which is cited on form PTO-892, rather than U.S. Patent No. 4,882,457 to Erdelitsch, et al., which is cited in the Office Action. Confirmation of the same is respectfully requested.

the order. The allegation that order numbers may be assigned arbitrarily is noted, but is completely unrelated to the invention defined by the claims -- and particularly the limitation of "processing the order using the M unit(s) as a representation of the N items." Accordingly, Applicant respectfully requests that this rejection under 35 U.S.C. §103 be withdrawn.

Claims 1-6 and 19-24 also have been rejected under 35 U.S.C. § 10(a) as allegedly being obvious over Green et al. (U.S. Patent No. 5,664,110). This rejection is respectfully traversed.

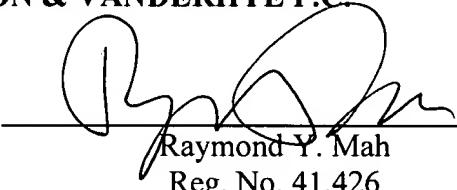
Again, Applicant notes that the portions of Green cited by the Office Action do not even relate to processing an order for a number of individual items and bundling items into unit(s) -- much less processing the order using the M unit(s) as a representation of the N items, as required by the claims. With respect to Green, the Office Action appears to confuse an identifying (i.e., a code identifying the order) with a number of unit(s) (M) into which those items may be bundled. As above, contrary to the assertion in the Office Action, M corresponds to a number of units, not a number of number merely representing the order. Once again, the allegation that order numbers may be assigned arbitrarily is noted, but is completely unrelated to the invention defined by the claims -- and particularly the limitation of "processing the order using the M unit(s) as a representation of the N items." Accordingly, Applicant respectfully requests that this rejection under 35 U.S.C. §103 be withdrawn.

**Conclusion:**

Applicant believes that this entire application is in condition for allowance and respectfully requests a notice to this effect. If the Examiner has any questions or believes that an interview would further prosecution of this application, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

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